

DEVILS LAKE SIOUX LAW AND ORDER CODE

TITLE 14: BUSINESSES

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DEVILS LAKE SIOUX LAW AND ORDER CODE

TITLE 14: BUSINESSES

CHAPTER ONE BUSINESS LICENSING

PART 1: LEGISLATIVE FINDINGS AND PURPOSE

§14-1-101. Sovereign Power to Regulate and License Business and Impose License Fees Therefor.

The power to regulate business conducted within the Devils Lake Sioux Indian Reservation by all persons, Indian and non-Indian, and to impose license fees therefor, is an inherent and an essential part of the authority of tribal government. Business regulatory power is an aspect of retained sovereignty of the Devils Lake Sioux Tribe except where it has been limited or withdrawn by applicable laws of the United States. The Tribe is a sovereign Indian tribe governed pursuant to the Constitution and Bylaws approved by the Commissioner of Indian Affairs on February 14, 1946, as amended from time to time thereafter. Pursuant to the Constitution and Bylaws, the Devils Lake Sioux Tribal Council is the governing body of the Tribe.

§14-1-102. Purpose.

The Devils Lake Sioux Tribal Council finds that the regulation of persons engaged in trade and business on the Reservation is necessary to safeguard and promote the peace, safety, morals, and general welfare of the Tribe. Accordingly, the Council declares that the Tribe has the sole and exclusive authority to grant, deny, or withdraw the privilege of doing business within the Reservation, except where such authority is limited or withdrawn from the Tribe by the applicable laws of the United States.

§14-1-103. Definitions.

The following terms, whenever used or referred to in this Chapter, shall have the following meanings, unless a different meaning clearly appears from the context:

- (1) “Agent” means the individual or individuals designated by any “licensee” to receive and accept “service of process.”
- (2) “Applicant” means any “person” who submits an application to the Tribe for a business license and who has not yet received such license.
- (3) “Business” means any regular or “temporary business” activity engaged in by any “person” for the purpose of conducting a trade, profession or commercial activity involving the “sale” of any “property” or “services”; provided, however, that an isolated sale of property or services shall not be considered to be “business” under this Chapter.
- (4) “Constitution” means the Constitution and Bylaws of the Tribe as revised, approved by the Secretary of the Interior on February 14, 1946, as amended thereafter.

- (5) “Company” means any “person” or group of people engaged in “business.”
- (6) “Council” means the Devils Lake Sioux Tribal Council acting as the governing body of the Tribe pursuant to its Constitution and Bylaws as approved and amended.
- (7) “Director” means the Tribal Revenue Director acting in his or her official capacity.
- (8) “Governmental Entity” means the United States, the “Tribe,” a state or any political subdivision, agency, or any subordinate organization of the foregoing, including economic enterprises or other entities owned or controlled by the Tribe.
- (9) “Licensee” means any “person” who is granted a business license by the Tribe.
- (10) “Notice” means actual notice by hand delivery or by certified mail. For time computations as provided for in this Chapter, which are to begin upon “notice,” such notice shall be at delivery, except that where delivery is not possible after three consecutive postal days due to the inaction of the “agent,” notice shall be at the time of the first attempted delivery. Upon return of the forms of notice to the Director, the forms shall be mailed by regular mail.
- (11) “Person” means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, public utility, club, business trust, non-profit corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise, and includes any instrumentality thereof. The term includes members and non-members of the “Tribe,” but excludes any “governmental entity”.
- (12) “Property” means any existing and identified real or personal property, including, but not limited to “goods” as that term is defined by §11-2-105 of this Code.
- (13) “Reservation” means the Devils Lake Sioux Indian Reservation as now or hereafter constituted.
- (14) “Sale” means the transfer, exchange or barter, conditional or otherwise, of the ownership of, title to, or possession of real or personal property for consideration. The term shall also include leases, conditional sales contracts, leases with the option to purchase, and any other contract under which possession of the property is given to the purchaser but title is retained by the seller as security. It shall also include the furnishing of food, drink, or meals for compensation, whether or not consumed on the premises. It shall also include any conditional or unconditional provision of services for consideration.
- (15) “Service of Process” includes the delivery of show-cause orders, cease and desist orders, summonses, complaints and other documents of the “Director” or “Tribal Court”.
- (16) “Services” means the performance of labor for the benefit of another for consideration. It excludes labor performed by an employee for the benefit of his or

her employer.

- (17) “Tribal Court” means the Tribal Court of the Tribe.
- (18) “Tribal law” means the tribal Constitution and all laws now and hereafter duly enacted by the “Council”.
- (19) “Tribal member” or “member of the Tribe” means an enrolled member of the Tribe. A corporation, partnership or other entity shall be considered a Tribal member, for purposes of this Chapter only, if 51% or more of the entity is owned by Tribal members.

§14-1-104. Administration of Chapter.

Because of the close interrelationship between the Tribe’s inherent sovereign powers to regulate the conduct of business on the Reservation and the Tribe’s inherent sovereign powers to collect taxes from persons engaged in business on the Reservation, the Tribal Revenue Department is hereby delegated the responsibility to administer the provisions of this Chapter. The Tribal Revenue Department is hereby delegated all powers which are specifically provided for in this Chapter, or impliedly necessary to implement its provisions, subject to Council review of any action taken by virtue of such delegated powers.

§14-1-105. Administrative Actions.

The Director shall promulgate regulations pursuant to this Chapter, formulate recommendations to submit to the Council for revisions of or amendments to this Chapter, and take other actions necessary for the administration of the provisions of this Chapter.

§14-1-106. Agreements with Federal, State and Local Governments.

In the event it is deemed appropriate to effectuate the provisions of this Chapter, the Tribal Council shall negotiate Memoranda of Agreement concerning this Chapter with federal, state and local governments.

PART 2: BUSINESS LICENSES

§14-1-201. Applicability.

This Chapter shall be applicable to all persons engaged in business within the exterior boundaries of the Reservation. No person shall engage in business upon the Reservation without a valid business license issued by the Tribe, except as provided in §14-1-204(1).

§14-1-202. Application and Issuance.

An application for a business license shall be submitted in writing to the Tribal Revenue Department, using forms which it shall provide. Any person engaged in business at the time this Chapter is enacted shall have 30 days in which to obtain and submit to the Tribe an application for a license. All applications shall include:

- (1) A description of the type of business;
- (2) The name and address of the owner or owners of the business;
- (3) The trade name, if any, to be used by the company;
- (4) The locations on the Reservation at which the business will be conducted;
- (5) A sworn statement that the applicant will comply with all Tribal law applicable to the applicant's business;
- (6) A statement that the applicant consents to Tribal Court jurisdiction and service of process in matters arising from the conduct of business;
- (7) The name, address and signature of the agent who will accept service of process on behalf of the company.

The Director shall notify the applicant by regular mail within 14 days after receipt of the application whether a license shall be issued. If a license is issued, the licensee shall post the license in a conspicuous manner at its primary business location.

§14-1-203. Denial of License and Appeal.

If it is determined that:

- (1) the applicant has materially misrepresented facts contained in the application,
- (2) the applicant presently is in non-compliance with tribal law, or
- (3) the business will threaten the peace, safety, morals, or general welfare of the Tribe.

The Director shall issue an order of denial to the applicant by certified mail, return receipt requested, within 14 days after receipt of the application. The order of denial shall set forth the

reasons for such denial and shall state that the applicant has three days from receipt of the order of denial to file a notice of appeal with the Tribal Revenue Department for an expedited administrative hearing under §14-1-305 of this Chapter, or 30 days from receipt of the order of denial to file a notice of appeal with the Tribal Court under §14-1-306.

§14-1-204. Exemptions.

- (1) The following shall not be required to obtain a license under this Chapter:
 - (a) governmental entities;
 - (b) tribal members engaged in the creation of traditional Indian art or handicrafts in their home;
 - (c) tribal members engaged in the traditional practice of medicine; and
 - (d) employees of a person.
- (2) The following shall not be required to pay a fee for the issuance of a business license under this Chapter:
 - (a) any church engaged in raising funds for religious or charitable purposes;
 - (b) any school, club or athletic organization engaged in staging athletic events for which an admission fee is charged, provided such admission fees do not accrue to the personal benefit of any individual; and
 - (c) any accredited school, no part of the income of which accrues to the personal benefit of any individual.

§14-1-205. Classes of Licenses.

- (1) Temporary Business License: All persons engaged in business on the Reservation for a period of four days or less shall have a temporary business license. The fee for a temporary business license is \$10.00.
- (2) Seasonal Business License: All persons engaged in business on the Reservation for a period of three months or less shall have a seasonal business license. The fee for a seasonal business license is \$25.00.
- (3) Permanent Business License: All persons engaged in business for a period exceeding three months shall have a permanent business license. The fee for a permanent business license is \$50.00. A licensee holding a permanent business license need not apply for renewal each year, but the licensee must notify the Tribal Revenue Department of any change in the licensee's business activities, which render inaccurate the information previously provided to the Tribal Revenue Department under §14-1-202.

§14-1-206. Conditions of License.

Each licensee shall comply with all applicable tribal laws, including but not limited to: tax laws, Indian employment and contracting preference laws, health and sanitation laws and consumer protection laws. The Tribe may, but need not, notify each licensee by regular mail of any additional tribal laws with which the licensee must comply as such laws are enacted by the Council.

Each licensee consents to the jurisdiction of Tribal Court as to any cause of action arising in connection with the transaction of any business within the Reservation, or any tortuous acts committed in connection with the transaction of any business within the Reservation. Each licensee consents to the service of process of the Tribal Court with respect to all actions over which the Tribal Court has subject matter jurisdiction, in accordance with this Code.

Each licensee shall respond in a timely manner to requests by the Tribal Revenue Department for information about the licensee's business for the purpose of establishing whether the licensee is in compliance with the terms of this Chapter.

PART 3: SANCTIONS

§14-1-301. Revocation of License; Failure to Obtain License; Show Cause Hearing.

- (1) Whenever it is brought to the attention of the Tribal Revenue Department that any person is in non-compliance with any condition of his license or has failed to obtain a license within the time requirements of this Chapter, the Director may serve upon such person or any agent of such person an order to show-cause why his license should not be revoked or why he should not be enjoined from doing business on the Reservation without a license. Such notice shall state the reason for the order, the time and place for the show cause hearing before the Tribal Court, and that the person shall have an opportunity to present testimony and cross examine opposing witnesses and to present any other evidence which he shall deem appropriate as to why a revocation order or an action should not be issued. The hearing shall be set for a time not exceeding 14 days and not less than 10 days from the date of the notice. The hearing shall be governed in all respects in accordance with the Rules of Procedure of the Tribal Court.
- (2) In the event it is determined that any person's non-compliance with this Chapter is a direct and immediate threat to the peace, safety, morals, or general welfare of the residents of the Reservation, the Director shall issue a cease and desist order which shall be served upon the person or any agent of the person. The person shall cease and desist business immediately upon service of the order and may file a notice of appeal with the Tribal Court within three days for an expedited appeal under §14-1-307, or within 30 days for a regular appeal to Tribal Court under §14-1-306.

§14-1-302. Civil Penalties and Restitution.

- (1) If it is determined that any person failed to comply with the conditions of his license or failed to secure a license within the time requirements of this Chapter, the Director may bring an action in Tribal Court for an order requiring the person to appear and show cause why a monetary penalty should not be imposed and restitution should not be ordered; provided, the amount of the penalty shall not exceed \$1,000.00 for each violation.
- (2) The Director may submit a recommendation to the Tribal Court regarding any restitution which the person should pay to any person or persons injured by his failure to comply with the conditions of his license or his failure to secure a license within the time requirements of this Chapter.
- (3) The Director may submit a recommendation to the Tribal Court regarding the amount of any civil penalty which the person should pay for failure to comply with the conditions of his license or failure to secure a license within the time requirements of this Chapter.

If the Director submits a suggested penalty amount, the Director shall expressly address in writing each and all of the following criteria:

- (a) the good or bad faith of the violator

- (b) the injury to the public resulting from the violation;
- (c) the benefits derived by the violator from the violation;
- (d) the violator's ability to pay;
- (e) the administrative costs of prosecution; and
- (f) the need to deter similar behavior by the violator and others and to vindicate the Tribe's authority and the integrity of the Director's orders.

The purpose of the civil penalty provided for herein shall be primarily to defray the costs of administration and enforcement of this Chapter, and secondarily, to deter continued violations of this Chapter by the violator or others; provided, however, that all funds collected by the Tribal Court under this section shall be subject to disposition by the Tribal Council.

§14-1-303. Removal and Exclusion of Non-Indians.

If any non-Indian, except any person authorized by federal law to be present on tribal land or any person who owns real property on the Reservation, fails to comply with any order of the Director without appealing the order or fails to appear for any hearing, the Director may petition the Tribal Court for an order directing the Tribal police to remove the non-Indian physically from the Reservation in accordance with Tribal law. The Director may also petition the Tribal Court for an order permanently excluding the non-Indian, except any person authorized by federal law to be present on tribal land, or any person who owns real property on the Reservation, and an order authorizing the seizure and sale, of any business property necessary to satisfy restitution and civil penalties imposed under this Chapter.

§14-1-304. Other Remedies.

The Director may petition the Tribal Court for other remedies provided for in this Code which are necessary to enforce the provisions of this Chapter, including but not limited to temporary restraining orders and preliminary and permanent injunctions. The Director may also petition a court of competent jurisdiction for a writ of execution to enforce an order, judgment or decree of Tribal Court off-Reservation. The order, judgment or decree must include findings showing:

- (1) the basis for the Tribal Court's jurisdiction over the subject matter and the parties;
- (2) the order, judgment or decree was not obtained fraudulently; and
- (3) the defendant was afforded due process.

§14-1-305. Expedited Administrative Appeal.

- (1) If an applicant for a business license seeks an administrative hearing, the Tribal Revenue Department, upon receipt of the notice of appeal, shall notify the applicant in person or by telephone, telegram or other electronic means, of the time set for the

expedited hearing which shall be not less than three nor more than five working days thereafter.

- (2) At the hearing the applicant shall be entitled to present testimony and cross examine opposing witnesses, and present any other evidence which the applicant shall deem appropriate. All oral testimony shall be recorded and retained until expiration of the time within which the applicant could appeal to Tribal Court. In the event of such an appeal, the Director shall immediately certify the record and deliver the recordings and all other evidence in the record to the Tribal Court. If no appeal is filed, all evidence, except recordings, submitted by the applicant shall be returned.
- (3) The Director shall rule upon the appeal within three working days after the hearing, and shall set forth in writing the factual findings and the reasons for his decision. If the appeal is denied, the ruling shall state that the applicant has 30 days from receipt thereof to file a notice of appeal with the Tribal Court under this subsection. The notice shall state in a conspicuous manner that the appeal sought is an expedited appeal pursuant to this Subsection.
- (4) Upon receipt of a notice of appeal from an expedited administrative hearing, the Tribal Court shall notify the applicant in person or by telephone, telegraph or other electronic means, of the time set for the expedited hearing which shall be not less than three nor more than five working days thereafter.
- (5) The appeal shall be decided by the Tribal Court sitting without a jury, and shall be heard solely on the record established at the hearing as certified by the Director. No new or additional evidence may be introduced during the appeal.
- (6) The Tribal Court shall uphold all factual findings of the Director unless the Court determines that such findings are not supported by substantial evidence in the record established before the Director. In reviewing reasons for denial of the license by the Director, the Court shall give proper weight to the Director's interpretation of this Chapter and any regulations promulgated hereunder.

§14-1-306. Direct Appeal to the Tribal Court.

If any person entitled to an appeal pursuant to this Chapter seeks a direct appeal to the Tribal Court, the appellant shall be deemed to have waived any right he may otherwise have to an expedited administrative hearing or an expedited appeal to the Tribal Court, and the appeal shall be governed in all respects in accordance with the Rules of Procedure of the Tribal Court.

§14-1-307. Expedited Direct Appeal to the Tribal Court.

- (1) Any person seeking an expedited appeal pursuant to Section §14-1-301(2) of this Chapter shall file a notice of appeal which states in a conspicuous manner that the appeal sought is an expedited appeal pursuant to this Subsection. Upon receipt of the notice of appeal the Tribal Court shall notify the appellant in person or by telephone, telegram or other electronic means, of the time set for the expedited hearing which

shall be held no later than five working days after receipt by the Tribal Court of the notice of appeal.

- (2) The expedited appeal hearing by the Tribal Court shall be by trial de novo and shall be governed in all respects in accordance with the rules of procedure of the Tribal Court, except that the Tribal Court shall rule upon the expedited appeal within three working days after completion of the hearing.

PART 4: SAVINGS CLAUSE

§14-1-401. Savings Clause.

In event that any provision of this Chapter shall be found or declared to be invalid, the remaining provisions of this Chapter shall be unaffected thereby, and shall remain in full force and effect.

CHAPTER TWO CONSUMER PROTECTION

PART 1: GENERAL PROVISIONS

§14-2-101. Unfair and Deceptive Practices Unlawful.

It shall be unlawful for any person to use any unfair or deceptive act or practice in the conduct of his or her business.

§14-2-102. Unsolicited merchandise.

Unless otherwise agreed, where unsolicited merchandise is delivered in person or by mail or common carrier to a person, he or she has a right to refuse such merchandise and is not obligated to return such merchandise to the sender. Such unsolicited merchandise shall be deemed an unconditional gift to the recipient, who may use it in any manner without any obligation to the sender. This Section shall not apply if there is evidence of an obvious misdelivery, or the merchandise is offered in good faith in substitution for merchandise solicited.

§14-2-103. Advertising Media Exempt Without Knowledge of Unlawfulness.

Nothing in this chapter shall apply to publishers, broadcasters, printers, or other persons in so far as an unlawful act or practice as defined in §14-2-101 involves information that has been disseminated or reproduced on behalf of others without knowledge that is an unlawful act or practice.

§14-2-104. Tribe May Restrain Prohibited Acts.

- (1) The Tribe may cause a civil action to be brought in its name in Tribal Court against any person to restrain him or her and prevent the doing of any act or practice prohibited by §14-2-101;
- (2) In any action brought under this Section, the court may make such additional orders or judgments as may be necessary to restore to any person any moneys or property which may have been acquired by means herein declared to be unlawful.

§14-2-105. Civil Action for Damages.

Any person who has been adversely affected by any act or practice which is unlawful under §14-2-101 shall be permitted to bring a civil action in Tribal Court for rescission and for the recovery of actual damages together with the costs of suit and a reasonable attorney's fee. The court may in its discretion increase the award of damages in an amount not to exceed three times the amount of actual damages; provided, however, that the amount by which the award is increased shall not exceed One Thousand Dollars (\$1,000.00).

§14-2-106. Limitation of Actions.

No action under this Chapter may be brought more than two years after the occurrence or discovery of the conduct which is the subject of the action.

PART 2: HOME SOLICITATION SALES

§14-2-201. Definitions.

In this chapter, unless the context otherwise requires:

- (1) “Consumer goods or services” means goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.
- (2) “Person” includes a corporation, company, partnership, firm, associations, or society, as well as a natural person. When the word “person” is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state, or country, or any political subdivision of this state which may lawfully own any property, or a public or private corporation, or partnership or association. When the word “person” is used to designate the violator or offender of any law, it includes corporation, partnership, or any association of person.
- (3) “Personal solicitation sale” means a sale, lease, or rental of consumer goods or services in which the seller or his representative solicits the sale, lease, or rental, by telephone or in person, and the buyer’s agreement or to purchase is made at a place other than the place of business of the person soliciting the same and that agreement or offer to purchase is there given to the seller or his representative. A transaction is not a personal solicitation sale if it is made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, lease, or rental.

§14-2-202. Cancellation Period--Method of Cancellation--Intent.

- (1) In addition to any right otherwise to revoke an offer, the buyer may cancel a personal solicitation sale until midnight of the third business day after the day on which the buyer enters into an enforceable agreement subject to this chapter. In addition to other requirements of this chapter, the seller shall orally inform the buyer, at the time the transaction is entered into, of the buyer’s right to cancel.
- (2) Cancellation shall occur when the buyer gives written notice of cancellation to the seller at the address specified for notice of cancellation provided by the seller by any of the following methods:
 - (a) Delivering written notice to the seller.
 - (b) Mailing written notice to the seller.
 - (c) Sending a telegram to the seller.
- (3) Notice of cancellation given by the buyer shall be effective if it indicates the intention on the part of the buyer not to be bound by the personal solicitation sale.

§14-2-203. Referral Sales–Rebate or Discount Violations.

No seller in a personal solicitation sale shall offer to pay a commission or give a rebate or discount to the buyer in consideration of the buyer's giving to the seller the names of prospective purchasers or otherwise aiding the seller in making a sale to another person, if the earning of the commission, rebate, or discount is contingent upon an event that is to happen subsequent to the time the buyer agrees to buy. Any sale made in respect to which a commission, rebate, or discount is offered in violation of this Chapter shall be voidable at the option of the buyer.

§14-2-204. Agreement Requirement.

No agreement of the buyer in a personal solicitation sale shall be enforceable unless it is in writing, dated, contains the signature of the buyer, and contains a conspicuous notice in substantially the following form:

NOTICE TO BUYER

- (1) Do not sign this agreement if any of the spaces intended for the agreed terms to the extent of then available information are left blank.
- (2) You are entitled to a copy of this agreement at the time you sign it.
- (3) You may pay off the full unpaid balance due under this agreement at any time, and in so doing you may receive a full rebate of the unearned finance and insurance charges.
- (4) You may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.
- (5) The seller cannot enter your premises unlawfully or commit any breach of the peace to repossess goods purchased under this agreement

The agreement shall also have attached the following completed form, in duplicate:

NOTICE OF CANCELLATION

- (1) You may cancel this transaction, without any penalty or obligation, within three business days from the above date.
- (2) If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.
- (3) If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

- (4) If you do make the goods available to the seller and the seller does not pick them up within twenty days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.
- (5) To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to (name of seller), at (address of seller's place of business) not later than midnight of (date).

I hereby cancel this transaction.

(Date)

(Buyer's signature)

§14-2-205. Evidence of Indebtedness.

- (1) A note or other evidence of indebtedness given by a buyer in respect of a personal solicitation sale shall be dated not earlier than the date of the agreement or offer to purchase. Any transfer of a note or other evidence of indebtedness bearing the statement required by Subsection (2) shall be deemed an assignment only and any right, title, or interest which the transferee may acquire thereby shall be subject to all claims and defenses of the buyer against the seller pursuant to this chapter.
- (2) Each note or other evidence of indebtedness given by a buyer in respect of a personal solicitation sale shall bear on its face a conspicuous statement as follows: "This instrument is based upon a personal solicitation sale which is subject to the provisions of the Devils Lake Sioux Law and Order Code. This instrument is not negotiable."
- (3) Compliance with the requirement of this Section is a condition precedent to any claim for relief by the seller or any transferee of an instrument bearing the statement required under Subsection (2) against the buyer upon such instrument and shall be pleaded and proved by any person who may institute an action or suit against a buyer in respect thereof.

§14-2-206. Time Limitation--Disposition of Goods.

- (1) Except as provided in this Section, within ten days after a personal solicitation sale has been canceled, the seller shall tender to the buyer and payments made by the buyer and any note or other evidence of indebtedness and shall take any action necessary to promptly terminate any security interest created in the transaction.
- (2) If the down payment includes goods traded in, the goods shall be tendered in substantially as good condition as when received. If the seller fails to tender the goods as provided by this Section, the buyer may elect to recover an amount equal to the trade-in allowance stated in the agreement.
- (3) The buyer may retain possession of goods delivered to him by the seller and has a lien on the goods for any recovery to which he is entitled seller has complied with the

obligations imposed by this Section.

§14-2-207. Buyer Responsibility–Services,

- (1) Except as provided in §14-2-205(3), within 20 days after a personal solicitation sale has been canceled, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale, but he is not obligated to tender at any place other than his own address. If the seller fails to stake possession of such goods within twenty days after cancellation the goods shall become the property of the buyer without obligation to pay for them.
- (2) The buyer shall take reasonable care of the goods in his possession both prior to cancellation and during the following 20-day period. During the twenty-day period after cancellation, except for the buyer's duty of care, the goods are at the seller's risk.
- (3) If the seller has performed any services pursuant to a personal solicitation sale prior to its cancellation, and if the seller's services result in the alteration of property of the buyer, the seller shall restore the property to substantially as good condition as it was in at the time the services were rendered.
- (4) The buyer may not cancel a personal solicitation sale if he initiates the contract with the seller and requests the seller to provide goods or services without delay because of an emergency and the seller in good faith makes a substantial beginning of performance before notice of cancellation and the cannot be returned to the seller in substantially as food condition as when the buyer received them.

§14-2-208. Exception.

The provisions of this chapter shall not apply to sales of insurance; nor shall it apply to sales of goods or services with a purchase price of less than \$25.00.

§14-2-209. Violations.

It is an unfair act or practice, within the meaning of §14-2-101, to violate any of the provisions of §14-2-201 through §14-2-206.

CHAPTER THREE FOOD SANITATION

§14-3-101. Health Board.

The final authority of any question of non-compliance with this Chapter shall rest with the Health Board of the Tribe or its designee.

§14-3-102. License Fees.

A fee of \$25.00 shall be payable to the Tribe for each full-time food service license application and \$10.00 for each itinerant food service license, that any decision of non-compliance shall be full and just cause for revocation of any license granted under this Chapter.

§14-3-103. Duration of Licenses.

Each full-time food service license is valid for a period of one year, expiring on September 31 of each year. Each itinerant food service license is valid for ten days after date of issuance.

§14-3-104. Inspection.

Each full-time food service establishment will be inspected at least twice as year by the Indian Health Service's Office of Environmental Health staff in accordance with the U.S. Public Health Service, Model Food Service Sanitation Ordinance: 1976 Recommendations of the Food and Drug Administration.

§14-3-105. Reinstatement After Revocation.

Any license revoked under this Chapter shall be reinstated only on determination of correction of the condition resulting in the finding of non-compliance and upon payment of a renewal fee not to exceed the original fee.

§ 14-3-106. Tribal Court Jurisdiction.

License revocation and fines will be decided by the Devils Lake Sioux Tribal Court upon refusal of the licensee to comply with the provisions of the U.S. Public Health Service, Model Food Service Sanitation Ordinance: 1976 Recommendations of the Food and Drug Administration.

§14-3-107. Condition for Issuance of License.

Prior to issuance of a food service license, the licensee must provide for proper water, sewer, and solid waste facilities; food protection equipment and practices; lighting, ventilation, and plumbing; and demonstrate the ability to operate a food service establishment properly by passing a food service inspection in accordance with the U.S. Public Health Service, Model Food Service Sanitation Ordinance: 1976 Recommendations of the Food and Drug Administration.

§14-3-108. Application for License.

The application for a temporary food service license for the Reservation shall include the name and address of the individual, firm, association or organization, the type of food to be served, type of cooking, facilities available, type of building to be utilized, a brief description of the sanitizing facilities to be used, a description of hand washing facilities available, waste disposal facilities, sources of all food supplies, and the names and addresses of all employees and a brief statement to the effect that the licensee has read and understands the provisions of the U.S. Public Health Service, Food Service Sanitation Ordinance: 1976 Recommendations of the Food and Drug Administration and agrees to abide by and adhere to the application Sections of that document.

§14-3-109. Standards Applicable.

The inspection of food service establishments; the issuance, suspension and revocation of permits to operate food service establishments; the prohibiting of the sale of adulterated or misbranded food or drink; and the enforcement of this Chapter shall be regulated in accordance with the unabridged form of the U.S. Public Health Service, Model Food Service Sanitation Ordinance: 1976 Recommendations of the Food and Drug Administration. Three copies of said document shall be on file in the Office of the Tribal Secretary, provided that the words "Municipality of" in said unabridged form shall be understood to refer to the Reservation of South Dakota.

§14-3-110. Violations.

Any person who violates any of the provisions of this Chapter may be subject to a civil penalty of an amount not to exceed \$200 for each violation, and a violator may be enjoined from continuing such violations and have his food service license revoked. Each day such violation occurs constitutes a separate violation.